

14.12.2022
S/L No.26
KS

(Assigned)
C.R.R. 840 of 2022

Sri Shyamal Kumar Halder @ Shyamal Halder
-Vs.-
The State of West Bengal & Ors.

Mr. Sambhunath De
Mr. Syamal Kumar Das
Ms. Smita Pal
.....For the Petitioner
Mr. Arijit Ganguly
Mr. Saryati Datta
.....For the State
Mr. Milon Mukherjee
Mr. B. Manna
.....For the O.P. Nos.4 to 7
Mr. Sandipan Ganguly
Mrs. M. Mukherjee
.....For the O.P. No.2

Mr. Datta, learned advocate appears on behalf of the State and submits a report of the Officer-in-Charge, Phoolbagan Police Station dated 12.12.2022. Let the report be kept with the record.

I have considered the anxiety/grievance of the present petitioner before this Court, I am unable to agree with the findings made by the Learned A.C.J.M., Sealdah in its order dated 04.02.2022 that the present petitioner failed to make out a case for investigation under Section 156(3) of the Code of Criminal Procedure warranting direction upon the police authorities to investigate into the case. On an appreciation of the materials placed before this Court, I am of the opinion that a prima facie case has been made out for investigation and for registration of the F.I.R.

against M/s. Apollo Hospitals, Kolkata – 700054. So far as the individuals who are concerned, who may be involved, it is for the investigating officer to find out the same. The names which are appearing in the application under Section 156(3) of the Code of Criminal Procedure will not be a guiding factor for the Investigating Officer to decide who would be an accused. In course of investigation, if it is found that the complicity of any medical practitioner/Doctor surfaces, in that case, the Investigating Officer would follow the guidelines laid down by the Hon'ble Supreme Court in the case of *Jacob Mathews Vs. State of Punjab & Anr.* reported in (2005) 6 SCC 1.

Keeping in mind the above observations, the Officer-in-Charge, Phoolbagan Police Station would register F.I.R. and proceed with the investigation of the case.

Accordingly, the order dated 04.02.2022 passed by the Learned A.C.J.M., Sealdah is hereby set aside.

Thus, C.R.R. 840 of 2022 is allowed.

Pending applications, if any, are consequently disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)